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E.O. 12958: DECL: 12/04/2016
TAGS: [PREL](#) [PGOV](#) [KCRM](#) [KJUS](#) [CASC](#) [KHLA](#)
SUBJECT: EL SALVADOR TO ACCEPT E TRAVEL DOC, STILL UNSURE
ABOUT OAS TREATY

REF: A. STATE 179139
[B](#). STATE 188230
[C](#). SAN SALVADOR 2639

Classified By: Ambassador H. Douglas Barclay. Reasons 1.4 (b) and (d)

[1](#). (C) SUMMARY: On December 4 the Ambassador, accompanied by poloff notetaker, met with Foreign Minister Lainez to follow up on the two major proposals the USG has presented to the GOES on the issue of the deportation of Salvadoran criminals.

Lainez agreed orally to accept the ICE-E Travel Document system, though the written confirmation he presented to the Ambassador as he was leaving the meeting included some caveats. Lainez also expressed continued confusion on the issue of the OAS Prisoner Transfer Treaty, and leveled accusations that certain states are cutting deals with criminals for early release in exchange for returning to their countries of origin. Sending a USG delegation to explain provisions of the treaty to GOES officials could prove beneficial to clear up continued confusion on the OAS Treaty. End Summary.

Background

[2](#). (C) Since the September 18 request of President Saca to President Bush for the USG to investigate mechanisms to mitigate the consequences of the deportation of Salvadoran criminals back to their home country, the USG has presented two concrete proposals: GOES acceptance of an ICE Electronic Travel Document, and GOES accession to the OAS Prisoner Transfer Treaty (reftels A and B). These proposals have been presented to GOES officials at various levels, who were noncommittal. The Ambassador called this meeting to seek a more definitive GOES response.

E Travel Document

[3](#). (C) On the Electronic Travel Document proposal, Lainez told the Ambassador the GOES will agree to start using the ICE E-Travel Document as long as their Consular Officials can assign the document a provisional passport number after reviewing the biometric data and confirming the identity and citizenship of the individual. He reported that the Ministry of Governance would then prepare a corresponding document in El Salvador with the same number to present to the individual upon arrival in El Salvador. Lainez said that this document printed by the Ministry of Governance would help meet their constitutional requirement that all passports/travel documents be produced directly by a GOES authority. He said

that President Saca had instructed him to find a way to make this program work as it is beneficial to the GOES. Lainez described this fix to the solution as a "bit of a stretch" constitutionally, but stated that his lawyers had reviewed it carefully and believed it could beat potential legal challenges. He said the GOES was very eager to cooperate with the US on the issue, and considered this a good solution. He also assured the Ambassador that the Ministry of Governance, in preparing the document on the Salvadoran end, would have to review all of the biometric and criminal background data, and thus the program would have the added benefit of getting the information to the correct Salvadoran authorities.

¶4. (C) Lainez provided the Ambassador a signed copy of El Salvador's agreement to use the ICE E-Travel System as the Ambassador walked out of the meeting. The letter affirmed much of what was said in the meeting, but included some contradictory language, especially in the annexes and diagrams attached. It expressed disappointment that planned negotiations for the ICE system to transfer data to the Salvadoran E-Travel system have not been completed, and included an extra caveat not raised at the meeting. The signed letter by Lainez said that in order to comply the GOES required that "the biographic, biometric, and other data be transferred from the ICE E-Travel Document System to the El Salvador E-Travel Document system." This requirement, elaborated on further in an annex, appears to drop the requirement that the systems be fully compatible, including the transfer of Excel Zip files, but seems to indicate their desire for further technical coordination. The letter also acknowledged and accepted the offer of the USG to provide direct access to relevant Consular and Law Enforcement Officials to the ICE system, and provide training and equipment to the Salvadoran Consulates. Originals of the letter and its accompanying diagrams have been scanned and sent via unclass email to WHA/CEN.

OAS Prisoner Transfer Treaty

¶5. (C) On the issue of accession to the OAS Prisoner Transfer Treaty, the Foreign Minister confessed that he still did not have a sufficient understanding of the details and provisions of the Treaty. Like other interlocutors on the issue (ref C), Lainez was noncommittal, and raised other related issues. He argued that one of the principal concerns of the GOES was that while no criminal prosecuted at the federal level is sent back before finishing their sentence, he had evidence of cases at the state level where deals were being reached to allow for reduced sentences in exchange for return to one's home country. He did not provide this evidence, but mentioned three scenarios: some states that mandate early release in exchange for deportation; instances of state attorney generals negotiating such a deal with criminals; and some states that allow a prisoner to choose between finishing their sentences or release for a pending deportation. Without making reference to what the OAS Treaty may do to solve this problem (the Ambassador re-iterated that no prisoner transfer treaty allows for the potential transfer without the consent of the prisoner), Lainez indicated that this was the area of greatest concern for the GOES, and hoped for USG cooperation to prevent any criminals accepting release in El Salvador in exchange for a reduced criminal sentence. The Ambassador promised to pass the message along, but reminded Lainez that the federal government does not have the authority to intervene in a state judicial proceeding. He said the USG was concerned, however, and wants to do everything possible to help prevent scenarios in which a criminal who might otherwise still behind bars is set free in El Salvador.

Comment

¶6. (C) The meeting was very cordial, and Lainez seemed pleased that the GOES has found a way to accept the ICE E-Travel Document, despite concerns expressed by some about

constitutional constraints and/or a potential loss of Salvadoran sovereignty. Overcoming this sovereignty hurdle and agreeing to let the USG physically print the document is a major development. The technical issues about the degree to which Salvadorans need data transferred to comply with the new system will have to be discussed at a working level, but should not create significant delays. On the issue of the OAS Treaty, post does not have information about deals being cut at a state level, but will press interlocutors in the GOES to provide evidence of the examples that Lainez mentioned. As the issue of prisoner transfer remains an area of confusion for our contacts, post requests that the Department authorize a meeting either in Washington or San Salvador so that members of the CA Bureau and the Prisoner Transfer unit of DOJ can explain the provisions of the treaty to GOES officials. Post also seeks Department guidance in responding to inquiries about deported criminals who have negotiated a reduced sentence.

Barclay